

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CASTRO VALLEY UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015030414

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
MEDIATION, PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING

On March 25, 2015, the parties filed a joint request for continuance, asking that the initial dates set in this matter be vacated. They requested mediation on April 8, 2015, a prehearing conference at 10:00 a.m. on April 17, 2015, and a due process hearing beginning May 13, 2015. An order granting the request, and setting the new dates they requested, with the exception of the mediation date, was issued on March 25, 2015.<sup>1</sup> The undersigned ALJ chose a mediation date of April 8, 2015.

On March 26, 2015, the parties filed a second joint request for continuance, asking that the mediation date of April 8, 2015, be changed to April 22, 2015, and that the PHC date be changed from April 20, 2015, to a date in May 2015. There was no explanation as to why the request was being made, although the form they completed for the joint request states that an explanation must be given when a second request for continuance is made.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the

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<sup>1</sup> April 17, 2015, the date for mediation chosen by the parties is a Friday, and OAH does not set mediations on Fridays, except when there are extraordinary circumstances. The order granting the continuance informed the parties that if the date the ALJ arbitrarily chose for mediation was not satisfactory, the parties could ask for it to be reset.

availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted, although the parties fail to provide an explanation as to why, after OAH continued the PHC to the date they asked for in their first request, they are requesting another date. However, it is inferred that they are asking for a new PHC date because the date currently set, April 20, 2015, is before the mediation date of April 22, 2015, they are now requesting.

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|------------------------|------------------------------|
| Mediation:             | April 22, 2015, at 9:30 a.m. |
| Prehearing Conference: | May 4, 2015, at 1:00 p.m.    |

IT IS SO ORDERED.

DATE: March 27, 2015

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/s/  
REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings